



COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

D.T.C. 21-AR

June 3, 2021

Investigation by the Department of Telecommunications and Cable on its own motion, pursuant to G.L. c. 159 §§ 12, 32 and 39, and G.L. c. 166 §§ 11 and 12, regarding the failure by individually-named common carriers of telecommunications services to file an annual return for calendar year 2018.

ORDER OPENING INVESTIGATION

<u>Docket #</u>	<u>Carrier</u>	<u>Year of Delinquency</u>	<u>Massachusetts Secretary of the Commonwealth Status</u>
DTC-21-AR-1	American Payphone Services, Inc.	2018	Voluntary Dissolution 03/05/2020
DTC-21-AR-2	American Phone Services Corp.	2018	Involuntary Revocation 06/28/2019
DTC-21-AR-3	Broadview NP Acquisition Corp.	2018	Withdrawn 01/11/2021
DTC-21-AR-4	Commonwealth Telephone Co., Inc.	2018	Voluntary Dissolution 10/01/2019
DTC-21-AR-5	CPMC, Inc.	2018	Registered/active
DTC-21-AR-6	Encompass Communications, LLC	2018	Involuntary Dissolution 06/28/2019
DTC-21-AR-7	FairPoint Business Services LLC	2018	Withdrawn 03/28/2019
DTC-21-AR-8	Gardner Post 129, American Legion, Inc.	2018	Registered/active
DTC-21-AR-9	Internet & Telephone, LLC	2018	Registered/active
DTC-21-AR-10	Lattice Incorporated	2018	Registered/active
DTC-21-AR-11	Lingo Communications of the Northeast, LLC/f/k/a Birch Communications of the Northeast, LLC	2018	Registered/active
DTC-21-AR-12	Mosaic Networx LLC	2018	Registered/active
DTC-21-AR-13	NobelTel, LLC	2018	Withdrawn 12/18/2018
DTC-21-AR-14	Residential Long Distance, Inc.	2018	Withdrawn 03/12/2018
DTC-21-AR-15	SelecTel, Inc.	2018	Registered/active
DTC-21-AR-16	Time Clock Solutions, LLC	2018	Registered/active
DTC-21-AR-17	TNCI Operating Company LLC	2018	Withdrawn 09/06/2016
DTC-21-AR-18	Transbeam, Inc.	2018	Dissolved 03/31/2008
DTC-21-AR-19	Vitcom LLC	2018	Registered/active
DTC-21-AR-20	Worldwide Marketing Solutions, Inc.	2018	Withdrawn 01/27/2021

I. INTRODUCTION

The Department of Telecommunications and Cable (“Department”) requires each telecommunications common carrier “doing business” in the Commonwealth during the corresponding calendar year to file an annual return with the Department. The Department’s records indicate that the 20 common carriers named in this Order did not file an annual return for calendar year 2018. Accordingly, the Department opens this investigation on its own motion to address these common carriers’ failures to file an annual return. The Department has docketed these proceedings under the generic docket number, D.T.C. 21-AR, with a sequential number for each individual case, *e.g.*, D.T.C. 21-AR-1, D.T.C. 21-AR-2, etc.

II. ORDER OPENING INVESTIGATION

Pursuant to G.L. c. 166, § 11, the Department requires all telecommunications common carriers “doing business” in the Commonwealth to file an annual return for the preceding calendar year by March 31, or at a later date fixed by the Department for “good cause shown.” G.L. c. 159, § 32; G.L. c. 166, § 11. Furthermore, the Department requires all common carriers engaged in the “transmission of intelligence within the [C]ommonwealth” to register and have an approved tariff and Statement of Business Operations (“SBO”) on file with the Department.¹

Investigation by the Dep’t of Pub. Utils. on its own motion into the regulatory treatment of telecomms. common carriers within the Commw. of Mass., D.P.U. 93-98, *Order* at 12 (May 11, 1994) (“*Common Carrier Regulatory Treatment Order*”).

The Department may commence enforcement proceedings against common carriers that fail to file their annual returns. *See* D.T.C. 16-AR, *Order Opening Investigation* (Feb. 3, 2016); D.T.C. 13-AR, *Order Opening Investigation* (Dec. 3, 2013); D.T.C. 11-AR, *Order Opening*

¹ Payphone providers are not required to have approved tariffs on file if their operator services are provided by a carrier registered with the Department.

Investigation (Dec. 2, 2011). The Department may deem a common carrier’s failure to file an annual return as cause for cancellation of the carrier’s registration and intrastate tariff(s). This cancellation prevents the common carrier from operating or providing telecommunications services within the Commonwealth. *See* D.T.C. 16-AR, *Final Order* at 9 (Aug. 1, 2017) (“*D.T.C. 16-AR Final Order*”); D.T.C. 13-AR, *Final Order* at 10-11 (Apr. 1, 2015) (“*D.T.C. 13-AR Final Order*”); D.T.C. 11-AR-C, *Final Order* at 9-11 (June 3, 2013) (“*D.T.C. 11-AR-C*”). Similarly, the Department may cancel the registration and “direct removal of public access line services from the payphones of any company” that fails to file its annual return and update its registration information. *See, e.g., D.T.C. 16-AR Final Order* at 24; *D.T.C. 13-AR Final Order* at 19; *D.T.C. 11-AR-C* at 11. Finally, the Department assesses statutory forfeitures against common carriers that fail to file an annual return in accordance with G.L. c. 166, § 11. *See* G.L. c. 166, § 12; *D.T.C. 16-AR Final Order* at 6-9; *D.T.C. 13-AR Final Order* at 6-9.

Any common carrier “doing business” in the Commonwealth that fails to file an annual return for the preceding calendar year by the requisite deadline shall forfeit \$5.00 per day for the first fifteen days of delinquency, \$10.00 per day for the subsequent fifteen days, and a sum not exceeding \$15.00 per day for each day of delinquency thereafter. G.L. c. 166, § 12. If the Department determines that a common carrier “unreasonably refuses or neglects” to file an annual return, the company shall forfeit up to \$500 for each offense as an additional penalty. *Id.*

The 20 common carriers listed below (individually, “Delinquent Carrier,” and collectively, “Delinquent Carriers”) failed to file an annual return for calendar year 2018. The Department notes their registration status with the Secretary of the Commonwealth.

<u>Docket #</u>	<u>Carrier</u>	<u>Year of Delinquency</u>	<u>Massachusetts Secretary of the Commonwealth Status</u>
DTC-21-AR-1	American Payphone Services, Inc.	2018	Voluntary Dissolution 03/05/2020
DTC-21-AR-2	American Phone Services Corp.	2018	Involuntary Revocation 06/28/2019
DTC-21-AR-3	Broadview NP Acquisition Corp.	2018	Withdrawn 01/11/2021
DTC-21-AR-4	Commonwealth Telephone Co., Inc.	2018	Voluntary Dissolution 10/01/2019
DTC-21-AR-5	CPMC, Inc.	2018	Registered/active
DTC-21-AR-6	Encompass Communications, LLC	2018	Involuntary Dissolution 06/28/2019
DTC-21-AR-7	FairPoint Business Services LLC	2018	Withdrawn 03/28/2019
DTC-21-AR-8	Gardner Post 129, American Legion, Inc.	2018	Registered/active
DTC-21-AR-9	Internet & Telephone, LLC	2018	Registered/active
DTC-21-AR-10	Lattice Incorporated	2018	Registered/active
DTC-21-AR-11	Lingo Communications of the Northeast, LLC/f/k/a Birch Communications of the Northeast, LLC	2018	Registered/active
DTC-21-AR-12	Mosaic Networx LLC	2018	Registered/active
DTC-21-AR-13	NobelTel, LLC	2018	Withdrawn 12/18/2018
DTC-21-AR-14	Residential Long Distance, Inc.	2018	Withdrawn 03/12/2018
DTC-21-AR-15	SelecTel, Inc.	2018	Registered/active
DTC-21-AR-16	Time Clock Solutions, LLC	2018	Registered/active
DTC-21-AR-17	TNCI Operating Company LLC	2018	Withdrawn 09/06/2016
DTC-21-AR-18	Transbeam, Inc.	2018	Dissolved 03/31/2008
DTC-21-AR-19	Vitcom LLC	2018	Registered/active
DTC-21-AR-20	Worldwide Marketing Solutions, Inc.	2018	Withdrawn 01/27/2021

The Delinquent Carriers were registered to provide telecommunications services at the onset of the relevant calendar year by having on file with the Department an approved tariff and SBO. *See* G.L. c. 159, §§ 12, 19; *Common Carrier Regulatory Treatment Order* at 12. Being registered with the Department to provide telecommunications services is indicative of “doing business” in the Commonwealth for the relevant year. *See D.T.C. 16-AR Final Order* at 6-7, 14; *D.T.C. 13-AR Final Order* at 7-8. Each Delinquent Carrier has not filed its annual return for the year listed.

Therefore, the Department hereby opens an investigation on its own motion into each Delinquent Carrier’s failure to file an annual return. The Department will make a determination as to whether the Delinquent Carriers have neglected or refused to file an annual return and, if

so, may cancel their registrations and intrastate tariffs. *See* G.L. c. 159, § 39; G.L. c. 166, §§ 11, 12; *D.T.C. 16-AR Final Order* at 9; *D.T.C. 13-AR Final Order* at 10-11. Furthermore, the Department shall also assess appropriate statutory forfeitures. *See* G.L. c. 166, § 12; *D.T.C. 16-AR Final Order* at 6-9; *D.T.C. 13-AR Final Order* at 6-9. In evaluating a Delinquent Carrier's annual return obligations, the Department considers several factors, including: (1) the extent and nature of the company's operations within the Commonwealth and its revenues for each of the applicable years; (2) the Delinquent Carrier's registration status with the Secretary of the Commonwealth;² (3) whether the company reported that it operates within Massachusetts on its Federal Communications Commission ("FCC") Form 499-A;³ and (4) whether the Delinquent Carrier failed to file updated address and contact information for their file or applicable intrastate tariff with the Department. *See, e.g.,* G.L. c. 166, § 11; *D.T.C. 16-AR Final Order* at 6-8; *D.T.C. 13-AR Final Order* at 7-9.

The Department directs each Delinquent Carrier to provide the Department with the following information in writing by July 6, 2021:

1. Did the company file its annual return for the relevant calendar year? If so, provide a copy of the annual return and documentation of the filing. If not, explain why the company did not file the annual return, and state whether the failure to file is reasonable. If the failure to file is stated as reasonable, explain why.
2. Did the company provide telecommunications services in Massachusetts during the relevant calendar year?

² The Department acquires this information from the Secretary of the Commonwealth's website at <http://corp.sec.state.ma.us/corpweb/corpsearch/CorpSearch.aspx> (last viewed May 28, 2021).

³ The FCC requires all telecommunications providers to file FCC Form 499-A annually by April 1, with limited exception. *See* FCC, 2015 Telecommunications Reporting Worksheet Instructions (FCC Form 499-A) at 2. The FCC reports submitted information on its FCC Form 499 Filer Database, *available at* <http://apps.fcc.gov/cgb/form499/499a.cfm> (last viewed May 28, 2021).

If any Delinquent Carrier fails to provide the Department with the requested information, the Department may make adverse findings of fact, and may order corrective action, including: cancelling the company's registration and intrastate tariff(s) on file with Department;⁴ assessing statutory forfeitures; and referring the matter to the Attorney General for enforcement. *See* G.L. c. 159, § 39; G.L. c. 166, § 12; *D.T.C. 16-AR Final Order* at 4-24; *D.T.C. 13-AR Final Order* at 5-20.

The Department will conduct these investigations as adjudicatory proceedings under G.L. c. 30A and 207 C.M.R. 1.00. The Department has initiated an independent proceeding for each Delinquent Carrier, and each proceeding will have a separate evidentiary record. Any person who wishes to file written comments, to intervene in the proceeding, or to request a hearing on these matters in accordance with G.L. c. 30A, § 1 and § 10 may file such requests with Shonda D. Green, Secretary of the Department, at the physical address below or electronically at dtc.efiling@mass.gov.

Shonda D. Green
Department of Telecommunications and Cable
1000 Washington Street, Suite 600
Boston, MA 02118-6500

Comments, requests to intervene, and requests for hearing must be filed by July 6, 2021. At that time, if the Department has not received a request for a hearing, any person having a right to request such a hearing shall be deemed to have waived such right pursuant to G.L. c. 30A, § 10. Petitions for leave to intervene must satisfy the substantive requirements of 207 C.M.R. § 1.03. The text of each submission must specify: (1) the complete docket number; (2) the name

⁴ Although the Department may have already cancelled the registration and intrastate tariff(s) of some of the Delinquent Carriers, the Department still must determine whether such carriers were "doing business" in the relevant year, for purposes of assessing statutory forfeitures.

of the person submitting the filing; (3) that person's title, if any; and (4) a brief descriptive title of the document (e.g., petition to intervene). Each submission should also include the name, title, and telephone number of a person to contact in the event of questions about the filing.

III. ORDER

Therefore, it is hereby:

ORDERED: That the Department opens investigations docketed D.T.C. 21-AR-1 through D.T.C. 21-AR-20, into the failure of 20 telecommunications common carriers to file an annual return for calendar year 2018; and it is

FURTHER ORDERED: That the named Delinquent Carriers must provide the Department with information in accordance with this Order by July 6, 2021; and it is

FURTHER ORDERED: That petitions to intervene in this proceeding and written comments shall be filed with the Secretary of the Department by July 6, 2021; and it is

FURTHER ORDERED: That a hearing, if so desired, must be requested by July 6, 2021; and it is

FURTHER ORDERED: That the Secretary of the Department shall publish the attached Notice of Investigation and Opportunity for Hearing in the Springfield Republican and the Boston Globe on June 17, 2021, and provide the Presiding Officer with return of service and proof of publication.

By Order of the Department,



Karen Charles Peterson, Commissioner

RIGHT OF APPEAL

Pursuant to G.L. c. 25, § 5, and G.L. c. 166A, § 2, an appeal as to matters of law from any final decision, order or ruling of the Department may be taken to the Supreme Judicial Court for the County of Suffolk by an aggrieved party in interest by the filing of a written petition asking that the Order of the Department be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the Department within twenty (20) days after the date of service of the decision, order or ruling of the Department, or within such further time as the Department may allow upon request filed prior to the expiration of the twenty (20) days after the date of service of said decision, order or ruling. Within ten (10) days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court for the County of Suffolk by filing a copy thereof with the Clerk of said Court. Appeals of Department Orders on basic service tier cable rates, associated equipment, or whether a franchising authority has acted consistently with the federal Cable Act may also be brought pursuant to 47 C.F.R. § 76.944.